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OFFICE OF PETITIONS

In re Application of  
Thomas R. Schimert et al  
Application No. 09/844,171  
Filed: April 25, 2001  
Attorney Docket No. 004578.1104

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: DECISION ON PETITIONS  
: UNDER 37 CFR 1.137(b) AND  
: 37 CFR 1.313(c)(2)

This is a decision on the petitions under 37 CFR 1.137(b) and 37 CFR 1.313(c)(2), filed February 24, 2003, to accept the unintentionally delayed payment of the issue fee and to withdraw the application from issue after acceptance of the issue fee.

The petitions are granted.

This application became abandoned for failure to timely pay the issue fee on or before February 19, 2003 as required by the Notice of Allowance and Fee(s) Due, mailed November 19, 2002.

The petition satisfies the conditions for revival under the unintentional provisions of 37 CFR 1.137(b) in that (1) the required reply (issue fee), (2) the petition fee, and (3) a proper statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Petitioner requests that this application be withdrawn from issue after revival in order to permit the filing of an Information Disclosure Statement and a Request for Continued Examination (RCE).

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 24, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed,

petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.<sup>1</sup>

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The file is being forwarded to Technology Center AU 2878 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

  
Frances Hicks

- Petitions Examiner
- Office of Petitions
- Office of the Deputy Commissioner
- for Patent Examination Policy

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<sup>1</sup> The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).